IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 25681 of 2007(G)

PETITIONER:

ALAMPALLY BROTHERS LIMITED,
MANALIMUKKU, KUZHIKKATTUKARA,
ALUVA, REPRESENTED BY ITS MANAGING
DIRECTOR M.B.KOYAKUTTY.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

---

1. THE ASSISTANT PROVIDENT FUND
COMMISSIONER & RECOVERY OFFICER, EMPLOYEES
PROVIDENT FUND ORGANISATION, BHAVISHYANIDHI
BHAVAN, KALOOR, KOCHI-17.

2. THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, 7TH FLOOR, SKYLARK BUILDING,
60 NEHRU PLACE, NEW DELHI-110 019,
REPRESENTED BY ITS REGISTRAR.

3. BHARAT PETROLEUM CORPORATION LIMITED,
LPG BOTTLING PLAN, AMBALAMUGAL, COCHIN,
REPRESENTED BY ITS TERRITORY MANAGER.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, P.F
SRI A.M. SHAFFIQUE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 25681 OF 2007

DATED THIS THE 23rd DAY OF AUGUST, 2007

JUDGMENT

The petitioner is an establishment covered under the Employees Provident Fund and Miscellaneous Provisions Act. It has been declared as a sick industry by the District Industries Centre. They committed default in payment of contributions under the Act, as a result of which damages have been imposed on them under Section 14-B. Earlier, they approached this Court twice. Originally I directed them to pursue appeal before the Tribunal. Later on they filed another writ petition seeking direction to the Board of trustees to consider their application for waiver of damages, which also was dismissed by me holding that since they have not been registered with the BIFR and BIFR has not sanctioned any scheme, the proviso to Section 14B is not applicable. Now the petitioner submits that the petitioner has already filed Ext.P3 appeal before the Employees Provident Fund Appellate Tribunal and during the pendency of the appeal the recovery of the damages may be stayed.

2. The learned standing counsel appearing for the Provident Fund Organisation stoutly opposes the prayer. According to him, the petitioners have approached this Court and they have not complied

with the earlier directions also.

3. After having heard both sides, I feel that some leniency can be shown to the petitioner in so far as the same is a sick industry gasping for survival. In the above circumstances, the writ petition is disposed of with the following directions.

The Employees Provident Appellate Tribunal shall dispose of Ext.P3 as expeditiously as possible. Pending disposal of the appeal recovery of the disputed amounts shall stand stayed on condition that the petitioner pays an amount of Rs.3 lakhs within one month from today.

S. SIRI JAGAN, JUDGE

Acd